

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

MACON ELECTRIC COOPERATIVE,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:18 CV 109 CDP
)	
KENNETH L. WOOLDRIDGE et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Fed. R. Civ. P. 56(f) permits a court to grant summary judgment on grounds not raised by a party after giving notice and a reasonable time to respond. In this action, plaintiffs seek as damages attorneys' fees and costs incurred in the *Wooldridge* case in connection with discovering and responding to Wooldridge's surreptitious taping of Board meetings.¹ However, in the *Wooldridge* action, plaintiffs previously requested Judge Autrey award "attorneys' fees and costs incurred in connection with investigating and bringing the motion for sanctions." (Doc. 80 at 19 in Case No. 2:16CV87 HEA). Judge Autrey denied the requested fees and costs and dismissed the *Wooldridge* case with prejudice. (Docs. 83, 84 in Case No. 2:16CV87 HEA). No party appealed that ruling.


¹ The Court assumes the parties' familiarity with the underlying facts and issues in this case.

Although defendants previously asked the Court to dismiss the entire action based on the doctrines of claim and issue preclusion, the parties did not specifically address in their pending motions for summary judgment the issue of whether plaintiffs are barred from recovering these fees and costs in this action under the doctrine of issue preclusion. It appearing that there are no disputed facts which would preclude resolution of this issue as a matter of law, the Court will permit the parties to submit simultaneous briefs on the issue of whether plaintiffs are entitled in this action to recover those attorney's fees and costs previously requested of, and denied by, Judge Autrey in the *Wooldridge* case based on the doctrine of issue preclusion.² **The briefs shall not exceed ten (10) pages in length and shall address only this issue. No responsive briefs will be permitted.**

Accordingly,

² In addition to the fees specifically requested of Judge Autrey, plaintiffs in this case are also seeking additional legal fees and costs incurred in connection with defending the *Wooldridge* action, legal fees and costs incurred in the *Smith* case, and legal fees and costs incurred in connection with Wooldridge's removal from the Board. As none of those fees and costs were specifically requested from Judge Autrey, those fees and costs are not the subject of this Memorandum and Order and should not be discussed in the parties' briefs.

IT IS HEREBY ORDERED that the parties shall file briefs in conformity with this Memorandum and Order not later than 21 days from the date of this Memorandum and Order. **No extensions of time will be granted.**



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 21st day of April, 2021.